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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 MIGUEL M. ARMENTERO,

9 Plaintiff,

10 v.

11 D.S.H.S.,

12 Defendant.
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CASE NO. C18-1699-JCC

ORDER

14 This matter comes before the Court *sua sponte*. On December 4, 2018, United States
15 Magistrate Judge Hon. Mary Alice Theiler granted Plaintiff's motion to proceed *in forma*
16 *pauperis*. (Dkt. No. 2.) Plaintiff names "D.S.H.S." as Defendant.¹ (*See generally* Dkt. No. 3.)
17 The Court reviewed the complaint prior to service pursuant to 28 U.S.C. § 1915(e)(2)(b)(ii), and
18 determined that it failed to state a claim upon which relief could be granted. (*See* Dkt. No. 5.) On
19 December 20, 2018, the Court directed Plaintiff to file an amended complaint in order to correct
20 the identified deficiencies. (*Id.* at 3.) Plaintiff failed to file an amended complaint.
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23 ¹ The Court will construe the complaint as making a claim against the Washington State
Department of Social and Health Services. (*See generally* Dkt. No. 3.)

1 Once a complaint is filed *in forma pauperis*, the Court must dismiss it prior to service if it
2 “fails to state a claim on which relief can be granted.” 28 U.S.C. § 1915(e)(2)(b)(ii); *see Lopez v.*
3 *Smith*, 203 F.3d 1122, 1229 (9th Cir. 2000) (en banc). To avoid dismissal, a complaint must
4 contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its
5 face. *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009). The factual allegations must be “enough to
6 raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,
7 555 (2007). A complaint may be dismissed if it lacks a cognizable legal theory or states
8 insufficient facts to support a cognizable legal theory. *Zixiang v. Kerry*, 710 F.3d 995, 999 (9th
9 Cir. 2013). The Court holds *pro se* plaintiffs to less stringent pleading standards than represented
10 plaintiffs and liberally construes a *pro se* complaint in the light most favorable to the plaintiff.
11 *Erickson v. Pardus*, 551 U.S. 89, 93 (2007). Nevertheless, section 1915(e) “not only permits but
12 requires a district court to dismiss an *in forma pauperis* complaint that fails to state a claim.”
Lopez, 203 F.3d at 1229.

13 Plaintiff fails to allege sufficient facts to demonstrate that Defendant is liable for the
14 misconduct claimed. At the outset, it is not clear what law Defendant is alleged to have violated.
15 (See Dkt. No. 5 at 2.) The complaint cites to a federal refugee statute, but Plaintiff’s claim
16 appears to deal with a state agency’s failure to provide him with various public assistance
17 benefits. (See *id.* at 2–4.) Also, the federal law cited by Plaintiff does not provide him with a civil
18 cause of action based on the facts alleged in the complaint. That law generally governs the
19 procedures for refugees seeking asylum in the United States. See 8 U.S.C. § 1158. Nor is it clear
20 why Plaintiff is entitled to the benefits that he was allegedly denied. Without further specificity,
21 the Court cannot determine whether the complaint asserts a cognizable legal claim or whether
22 that claim is supported by sufficient factual allegations. Further, while Plaintiff describes the
23 harm he experienced—for example, the denial of “health benefits” and “food benefits”—the
complaint does not contain sufficient facts to put Defendant on notice of when the harm
occurred. (*Id.* at 5) (stating that denial of benefits happened “in 2013”).

1 Pursuant to 28 U.S.C. § 1915(e)(2)(b)(ii), the Court DISMISSES Plaintiff's complaint
2 (Dkt. No. 3) without leave to amend. Plaintiff's motion to appoint counsel (Dkt. No. 4) is
3 DENIED as moot. The Clerk is DIRECTED to close this case and send a copy of this order to
4 Plaintiff.

5 DATED this 14th day of January 2019.

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8 John C. Coughenour
9 UNITED STATES DISTRICT JUDGE
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